



General Assembly

January Session, 2011

**Substitute Bill No. 6598**

\* HB06598JUD 040711 \*

**AN ACT CONCERNING OFFERS OF COMPROMISE IN  
CONSTRUCTION CONTRACT ARBITRATION PROCEEDINGS AND  
MEDIATION AND ARBITRATION OF CONSTRUCTION CONTRACTS.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2011*) (a) For the purposes of  
2 this section, "construction contract" means any contract entered into on  
3 or after October 1, 2011, for construction, renovation or rehabilitation  
4 in this state, including any improvements to real property that are  
5 associated with such construction, renovation or rehabilitation, or any  
6 subcontract for construction, renovation or rehabilitation between an  
7 owner and a contractor, a contractor and a subcontractor or a  
8 subcontractor and another subcontractor. "Construction contract" does  
9 not include (1) any public works or other contract entered into with  
10 this state, any other state or the United States, or (2) a contract or  
11 project funded or insured by the United States Department of Housing  
12 and Urban Development.

13 (b) After a party to a construction contract has made a demand for  
14 arbitration pursuant to the dispute resolution provision of the  
15 construction contract, such party may, not more than once and at any  
16 time before a final award is rendered by the arbitration panel, send by  
17 certified mail, return receipt requested, to the opposing party or the  
18 opposing party's attorney a written offer of compromise, signed by the  
19 party or the party's attorney and directed to the opposing party or  
20 attorney, offering to settle all of the claims set forth in the arbitration

21 for a sum certain. Within thirty days after being notified of the offer of  
22 compromise and before a final award is rendered by the arbitration  
23 panel, the opposing party or the opposing party's attorney may reply,  
24 by certified mail, return receipt requested, with a written acceptance of  
25 the offer of compromise agreeing to settle all claims set forth in the  
26 arbitration for the sum certain specified in the offer of compromise. If  
27 the opposing party or attorney does not accept the offer of compromise  
28 within thirty days after being notified of the offer of compromise and  
29 before a final award is rendered by the arbitration panel, the offer of  
30 compromise shall be considered rejected and not subject to acceptance  
31 under this section.

32 (c) After issuance of a final arbitration award and upon the  
33 application of any party to a construction contract to confirm, vacate,  
34 modify or correct the award, any party who made an offer of  
35 compromise pursuant to subsection (b) of this section which the  
36 opposing party failed to accept may file with the court proof of the  
37 party's offer of compromise. If the court confirms the arbitration award  
38 and ascertains from the record that the party has recovered an  
39 arbitration award in an amount equal to or greater than the sum  
40 certain specified in the party's offer of compromise, the court shall add  
41 to the amount of the award eight per cent annual interest on the total  
42 amount of such award, in addition to any interest awarded by the  
43 arbitrator. The interest shall be computed from the date the original  
44 arbitration demand for the subject proceeding was filed. The court  
45 shall further award reasonable attorney's fees and costs for bringing  
46 the action to confirm, vacate, modify or correct the award and shall  
47 render judgment accordingly.

48 (d) This section shall not be interpreted to abrogate or modify the  
49 contractual rights of any party concerning the recovery of attorney's  
50 fees in accordance with the provisions of any written contract between  
51 the parties to the arbitration.

52 Sec. 2. Section 42-158m of the general statutes is repealed and the  
53 following is substituted in lieu thereof (*Effective October 1, 2011*):

54 Any provision in a construction contract for the performance of  
55 work on a construction site located in this state that purports to require  
56 that any dispute arising under the construction contract be mediated,  
57 arbitrated or otherwise adjudicated in or under the laws of a state  
58 other than Connecticut shall be void and of no effect, regardless of  
59 whether the construction contract was executed in this state.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2011	New section
Sec. 2	October 1, 2011	42-158m

***Statement of Legislative Commissioners:***

In Sec. 1(b), "within" and "the party's" were inserted, and the last sentence in Subsec. (c) was designated as Subsec. (d). The changes were made for clarity and consistency with the general statutes.

***JUD***      *Joint Favorable Subst.-LCO*